

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1595 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SARANGPUR CO OPERATIVE BANK LTD.

Versus

NAVINCHANDRA BHIKHABHAI SHAH

Appearance:

MR PV NANAVATI for Petitioner
NOTICE SERVED for Respondent No. 1
MR AJ PATEL for Respondent No. 6, 7

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 30/06/2000

ORAL JUDGEMENT

1. The third party, Sarangpur Cooperative Bank Limited, has filed this appeal, under Section 75(2) of the Provincial Insolvency Act, challenging the order dated December 16, 1980 passed by learned Judge, City

Civil Court, below Exh.78, in Insolvency Petition No.7 of 1978.

2. In the insolvency proceeding, third party (applicants) filed application Exh.78, in Insolvency Petition No. 7 of 1978, for return of goods, which were lying in custody of the appellant-bank. In the said insolvency proceeding, properties-goods of Puspa Steel Depot were seized and attached and were lying in the custody of the Bank. The applicants, in the above application, contended that the goods as mentioned in the application Exh.78 were of their ownership and the said goods were never pledged to the Bank and, therefore, the said goods may be entrusted to them. Learned Judge, City Civil Court, who heard the application Exh.78 in the abovementioned insolvency proceeding, observed that there was nothing on record to show that the goods in question were pledged by the debtor to the said Bank. Learned Judge, further, observed that, in spite of several opportunities given to the Bank to show whether the said goods were pledged by the debtor to the Bank, no documents were produced. Learned Judge, in view of the above set of circumstances, passed the order that the goods which were of the value of Rs.2000 be handed over to the third party-applicants on their executing bond in the sum of Rs.2000/-. The said order is challenged by the Bank in this appeal.

2. Having heard learned counsel for the appellant and on perusal of the record of proceeding of the trial court, I am of the opinion that no error is committed by the trial judge in passing the impugned order by which the goods worth Rs.2000 were ordered to be handed over to the third party-applicants who were real owners of the said goods. Contention of the Bank that the suit goods were pledged by the debtor did not find favour with the trial judge because the Bank had not produced any document in support of its case that the said goods were pledged by the debtor. Learned counsel for the appellant has not been able to point out any error committed by the trial judge in passing the impugned order. This appeal being meritless deserves to be dismissed.

3. As a result of foregoing discussion, the appeal is dismissed with no order as to costs.

(swamy)